

Though all the parties to a suit waive the statute, it may be relied upon by anyone who comes in and has an interest to protect. *Hammond v. Hammond*, 2 Bl. 366.

A party whose claim has been rejected or satisfied can not set up the statute as against other claims. *Cape Sable Co.'s Case*, 3 Bl. 672.

Where the corporation is a party to the cause and does not plead the statute, a stockholder can not do so. *Davis v. Gemmell*, 73 Md. 537.

Non-residents may plead limitations. *Bannon v. Lloyd*, 64 Md. 49.

The personal representative alone can plead limitations to claims against the decedent's estate. A trust in a will to pay debts will not revive debts barred at the death of the testator, but the trustee alone can plead the statute. *Spencer v. Spencer*, 4 Md. Ch. 464.

Limitations can not be relied upon, unless it is pleaded. *Bannon v. Lloyd*, 64 Md. 49; *Merryman v. State*, 5 H. & J. 423 and note (a); *Maddox v. State*, 4 H. & J. 641. And see *Dixon v. Dixon*, 1 Md. Ch. 274; *Hepburn's Case*, 3 Bl. 110; *Estate of Young*, 3 Md. Ch. 476; *Cape Sable Co.'s Case*, 3 Bl. 672; *Smith v. Williamson*, 1 H. & J. 150.

The pleading of limitations is a matter within the discretion of an administrator—art. 93, sec. 98.

For a form of plea of limitations. see art. 75, sec. 24. sub-sec. 50. See also, art. 75, sec. 43.

Limitations in equity.

In all cases of concurrent jurisdiction between the law and equity, the statute is equally obligatory in each court. *Teackle v. Gibson*, 8 Md. 87; *Hertle v. Schwartz*, 3 Md. 383; *Dugan v. Glittings*, 3 Gill, 161; *Sindell v. Campbell*, 7 Gill, 76; *Tiernan v. Rescaniere*, 10 G. & J. 223.

In equity, the defense of limitations may be availed of on demurrer; *contra*, at law. Limitations may be pleaded after a decree *pro confesso*. *Belt v. Bowle*, 65 Md. 353.

Equity may refuse to grant relief where the statute applies, although it is not pleaded. *Syester v. Brewer*, 27 Md. 319.

In a creditor's suit, any creditor may set up the statute of limitations (subject to all its provisos and conditions), as against the claims of other creditors. *Strike v. McDonald*, 2 H. & G. 227.

In a creditor's suit, the statute may be pleaded against the claims of creditors subsequently coming in. *Strike's Case*, 1 Bl. 92.

The statute may be set up in equity against a claim at any time after the claim is filed, either before or after the auditor's report. *Young v. Mackall*, 3 Md. Ch. 410; *Welch v. Stewart*, 2 Bl. 42.

Limitations must be set up in equity as soon as the party relying upon such defense becomes aware of the claim to which it is applicable. When limitations begins to run. *Berry v. Pierson*, 1 Gill, 248.

The defense of limitations set up in an answer to a creditor's bill, has no effect on claims subsequently coming in. How such defense must be presented as to such claims. *Williams v. Banks*, 11 Md. 236.

In a suit by creditors to set aside a deed as fraudulent, where the court of appeals has held a plea of limitations good, the debtor's administrator can not remove the bar by confessing judgment in favor of the creditors; nor can a confession of judgment affect a claim which has been merely suspended by the chancellor, but which subsequently appears to be barred by limitations. Where exceptions to claims filed under a notice to creditors presents in substance the defense of limitations, it will be held sufficient. *McDowell v. Goldsmith*, 25 Md. 231.

If limitations is not set up in the answer, it can not be relied upon by way of exception to an audit; nor can the answer be amended. *Brendel v. Strobel*, 25 Md. 395.

Although mortgages are not within the words of the statute, equity has established 20 years as the period beyond which the right of redemption does not extend. *Hertle v. McDonald*, 2 Md. Ch. 133; *Boyd v. Harris*, 2 Md. Ch. 213. As to a vendor's lien, see *Moreton v. Harrison*, 1 Bl. 499. As to an equitable lien see *Lingan v. Henderson*, 1 Bl. 281; *Allender v. Vestry of Trinity Church*, 3 Gill, 169; *Magruder v. Peter*, 11 G. & J. 245. But see *Collinson v. Owens*, 6 G. & J. 11.